

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARCUS L. HARRISON,

Plaintiff,

v.

D.E. MILLIGAN, et al.,

Defendants.

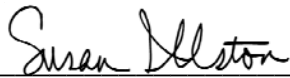
No. C 09-4665 SI (pr)

**ORDER DENYING APPOINTMENT  
OF COUNSEL**

This case has been referred to Magistrate Judge Vadas for settlement proceedings. Plaintiff has requested that counsel be appointed to represent him during the settlement conference and, should the case not settle, at trial. A district court has the discretion under 28 U.S.C. §1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional circumstances. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *See id.* Neither of these factors is dispositive and both must be viewed together before deciding on a request for counsel under § 1915(e)(1). Here, exceptional circumstances requiring the appointment of counsel are not evident. The request for appointment of counsel is DENIED. (Docket ## 31, 32.)

IT IS SO ORDERED.

Dated: March 22, 2012

  
SUSAN ILLSTON  
United States District Judge